

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JUAN A. KINLEY,

Petitioner,

v.

MARGARET BRADSHAW, Warden,

Respondent.

Case No. 3:03-cv-127

JUDGE WATSON

Magistrate Judge Kemp

ORDER

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action under 28 U.S.C. §2254. This matter is before the Court on petitioner's motion for an order to supplement/expand the record, (Doc. # 42).

On March 29, 2006, this Court issued an *Opinion and Order* granting petitioner leave, pursuant to Rule 6 of the Rules Governing Section 2254 Cases, to depose Donald Merriman in connection with petitioner's claims that his rights to due process and a fair trial were violated when Mr. Merriman presented false or inaccurate testimony during petitioner's trial (sixteenth ground for relief), and when the State elicited false or inaccurate testimony from Mr. Merriman regarding whether the State had offered Mr. Merriman any incentives in exchange for his testimony against petitioner (seventeenth ground for relief). (Doc. # 40.) Petitioner conducted the deposition of Mr. Merriman on May 24, 2006, and now seeks to supplement the record with the transcript from that deposition. (Doc. # 42.)

For good cause shown and because respondent does not object, petitioner's motion to expand the record, (Doc. # 42), is GRANTED. Pursuant to the Court's authority under Rule 7 of the Rules Governing Section 2254 Cases, petitioner is directed to file a copy of the deposition

transcript of Donald Alan Merriman, if he has not done so already, and the Clerk is directed to file the transcript as a part of the record in this case.

IT IS SO ORDERED.

/s/ Terence P. Kemp
United States Magistrate Judge